

Exhibit 4

The Honorable John L. Weinberg

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

| | | |
|---------------------------|---|--|
| UNITED STATES OF AMERICA, |) | CASE NO. MJ21-147 |
| |) | |
| Plaintiff, |) | |
| |) | COMPLAINT for VIOLATION |
| v. |) | 18 U.S.C. § 2252(a)(4)(B), (b)(2) |
| |) | |
| THOMAS S. CLARK, |) | |
| |) | |
| Defendant. |) | |

BEFORE, The Honorable Mary Alice Theiler, United States Magistrate Judge, U.S.
Courthouse, Seattle, Washington.

COUNT 1

(Possession of Child Pornography)

Between on an unknown date and continuing until on or about March 18, 2020, at
Edmonds, within the Western District of Washington, and elsewhere, THOMAS S.
CLARK knowingly possessed matter that contained visual depictions, the production of
which involved the use of minors engaging in sexually explicit conduct, and the visual
depictions were of such conduct, that had been mailed and shipped and transported in and
affecting interstate and foreign commerce by any means, including by computer, and
which had been produced using materials that had been mailed and shipped and

1 transported in and affecting interstate and foreign commerce by any means, including by
2 computer, and the images of child pornography involved include images of a
3 prepubescent minor and a minor who had not attained 12 years of age.

4 All in violation of Title 18, United States Code, Section 2252(a)(4)(B), (b)(2).
5

6 And the Complainant states that this Complaint is based on the following
7 information:

8 I, Reese Berg, being first duly sworn on oath, depose and say:

9 **I. INTRODUCTION**

10 1. I am an investigative or law enforcement officer of the United States within
11 the meaning of Title 18, United States Code, Section 2510(7). I am currently employed
12 as a Special Agent with Homeland Security Investigations (HSI). I have been a federal
13 law enforcement officer for over 15 years. I have investigated and/or participated in
14 investigations involving narcotics smuggling, human trafficking/smuggling, firearms
15 trafficking, child pornography, child exploitation, marriage fraud and international
16 criminal gangs. I have also held positions in law enforcement as a Military Police Officer
17 and Military Police Investigator with the U. S. Army for over 20 years. I am a graduate
18 of the 9-week Criminal Investigator Training Program as well as the Immigration and
19 Customs Enforcement Special Agent Training program at the Federal Law Enforcement
20 Training Center in Glynco, Georgia. I am currently assigned as a Special Agent with HSI
21 Seattle, where my duties include child exploitation and child pornography investigations.
22 I have participated in more than thirty child exploitation or child pornography
23 investigations and have worked extensively with other investigators involved in these
24 types of investigations.

25 2. As further detailed below, based on my investigation and the investigation
26 of other law enforcement officers, I believe there is probable cause to conclude that
27 THOMAS S. CLARK, has committed the offense charged in Count 1 of this Complaint--
28

1 namely, possession of child pornography in violation of 18 U.S.C. § 2252(a)(4)(B),
2 (b)(2).

3 3. The facts set forth in this Complaint are based on my own personal
4 knowledge; knowledge obtained from other individuals during my participation in this
5 investigation, including other law enforcement officers; review of documents and records
6 related to this investigation; communications with others who have personal knowledge
7 of the events and circumstances described herein; and information gained through my
8 training and experience.

9 4. Because this complaint is offered for the limited purpose of establishing
10 probable cause, I list only those facts that I believe are necessary to support such a
11 finding. I do not purport to list every fact known to me or others as a result of this
12 investigation.

13 II. SUMMARY OF INVESTIGATION

14 5. In February 2020, HSI Seattle Field Office was advised by the HSI Boston
15 Field Office that they had been investigating individuals accessing “dark web” sites and
16 forums dedicated to the sexual abuse and exploitation of children. Previously in June of
17 2019, a foreign law enforcement agency seized a computer server hosting three “dark
18 web” sites operating on the TOR (The Onion Router) Network. Based on information
19 obtained through collaborative investigation, one user that connected to what will be
20 hereinafter referred to as the “TARGET WEBSITE,” was identified as THOMAS S.
21 CLARK of Edmonds, Washington.

22 6. The foreign law enforcement agency described the TARGET WEBSITE as
23 having “an explicit focus on the facilitation of sharing child abuse material (images, links
24 and videos), emphasis on indecent material of boys.” The foreign law enforcement
25 agency stated that “[u]sers were able to view some material without creating an account.
26 However, an account was required to post and access all content.”

27 7. HSI was notified by the foreign law enforcement agency that IP Address
28 73.35.134.84 accessed the TARGET WEBSITE on April 12, 2019, at 20:19:48 UTC. A

1 query of IP Address 73.35.134.84 revealed it was registered to Comcast Communications
2 on April 12, 2019.

3 8. According to the foreign law enforcement agency and HSI Special Agent
4 Greg Squire who observed the TARGET WEBSITE while it was operational, child
5 pornography images and videos were trafficked through the TARGET WEBSITE via the
6 posting of web links within forum messages. Links allowed a user to navigate to another
7 website, such as a file-hosting website, where images and/or videos are stored, in order to
8 download these images and videos. Entry to the TARGET WEBSITE was obtained
9 through free registration.

10 9. Accordingly, based on SA McFarland's training and experience and the
11 information articulated herein, because accessing the TARGET WEBSITE required
12 numerous affirmative steps by the user – to include downloading Tor software, accessing
13 the Tor network, finding the web address for TARGET WEBSITE, and then connecting
14 to TARGET WEBSITE via Tor – it is extremely unlikely that any user could simply
15 stumble upon the TARGET WEBSITE without understanding its purpose and content.
16 The TARGET WEBSITE cannot generally be accessed through the traditional internet.
17 Even after connecting to the Tor Network, a user would have to find the 16 or 56-
18 character web address of the TARGET WEBSITE to access it. Hidden service websites
19 on the Tor Network are not “indexed” by search engines such as Google to anywhere
20 near the same degree as websites that operate on the open Internet.

21 10. On or about September 5, 2019, a summons was issued to Comcast
22 Communications requesting subscriber information associated with IP address
23 73.35.134.84 on April 12, 2019, at 20:19:48 UTC, corresponding to the date and time the
24 TARGET WEBSITE was accessed by a user assigned that IP address.

25 11. On September 6, 2019, Comcast identified the following account holder
26 and address associated with IP address 73.35.134.84 which corresponds with 9301 244th
27 St. SW, Apt. H103, Edmonds, Washington, hereinafter the SUBJECT PREMISES:

28 Subscriber Name: TOM CLARK

1 Service Address: 9301 244th St. SW, Apt H103
2 Edmonds, WA 98020-6560

3 12. A search of a public records database that provides names, dates of birth,
4 addresses, associates, telephone numbers, email addresses, and other information was
5 conducted for 9301 244th St. SW, Apt H103, Edmonds, Washington 98020, as well as
6 "THOMAS CLARK". These public records indicated that THOMAS STEPHEN
7 CLARK's current address is 9301 244th St. SW, Apt H103, in Edmonds, Washington (the
8 SUBJECT PREMISES).

9 13. On March 2, 2020, SA McFarland queried Washington State Department of
10 Licensing records which revealed THOMAS STEPHEN CLARK was issued a
11 Washington State driver license on August 18, 2019 at the SUBJECT PREMISES.

12 14. On March 4, 2020, an HSI analyst obtained THOMAS STEPHEN
13 CLARK's Washington State sex offender registry records which revealed THOMAS
14 STEPHEN CLARK's address and status was last verified on December 21, 2019, at the
15 SUBJECT PREMISES, located at 9301 244th St. SW, Apt. H103, Edmonds, Washington
16 98020. I also contacted the Snohomish County Sheriff's Office who verified THOMAS
17 CLARK's most recent check-in for the sex offender registry listed the SUBJECT
18 PREMISES as his current residence.

19 15. On March 4, 2020, SA McFarland conducted surveillance of the SUBJECT
20 PREMISES. The front entrance of THOMAS STEPHEN CLARK's apartment is located
21 back from the sidewalk and is in an area where multiple units can be accessed rendering
22 it difficult to determine which unit an individual came from. At approximately 8:00 a.m.,
23 a male with similar physical characteristics as THOMAS STEPHEN CLARK exited the
24 "H" apartments to walk his dog. At approximately 8:10 a.m., the same male returned to
25 the "H" apartments with his dog. At approximately 8:35 a.m., the same male with similar
26 physical characteristics as THOMAS STEPHEN CLARK exited the "H" apartments and
27 got into a tan Subaru Crosstrek bearing Washington license plate number AYK9372 and
28 departed the apartment complex. A query of license plate number AYK9372 revealed the
registered owner is THOMAS STEPHEN CLARK at the SUBJECT PREMISES. Vehicle

1 records indicate the vehicle was purchased by THOMAS STEPHEN CLARK in 2016
2 and the registration was renewed on January 25, 2020, listing the SUBJECT PREMISES.

3 16. On March 2, 2020, SA McFarland queried THOMAS STEPHEN
4 CLARK's criminal history which revealed THOMAS STEPHEN CLARK was
5 previously convicted on June 2, 2017, of Washington State violations of RCW 9.68A.050
6 Dealing in Depictions of Minors Engaged In Sexually Explicit Conduct and RCW
7 9.68A.070 Possession of Depictions of Minors Engaged in Sexually Explicit Conduct.
8 THOMAS STEPHEN CLARK was sentenced to six months of work release and
9 Washington State Department of Corrections (DOC) Supervision which expired on or
10 about November 27, 2018.

11 17. The Seattle Office of Homeland Security Investigations was the lead
12 agency on THOMAS STEPHEN CLARK's 2016-2017 child pornography prosecution in
13 which Special Agent Scott Sutehall received child pornography files from THOMAS
14 STEPHEN CLARK via a chat application between August 21, 2016 and August 25,
15 2016. At the time, THOMAS STEPHEN CLARK lived alone in his Mercer Island,
16 Washington residence. Forensic analysis of THOMAS STEPHEN CLARK's digital
17 devices and media following the execution of the 2016 residential search warrant yielded
18 approximately 650 child pornography files. During his interview, THOMAS STEPHEN
19 CLARK admitted to possessing child pornography and receiving and distributing child
20 pornography via the chat application from his Apple iPhone. THOMAS STEPHEN
21 CLARK also confessed to having a sexual interest in minor male children ages 13–15
22 years old.

23 18. On March 13, 2020, HSI SA McFarland requested and was granted a
24 federal search warrant (MJ20-124) for the search of 9301 244th St. SW, Apt. H103 in
25 Edmonds, Washington, and the person of THOMAS S. CLARK.

26 19. On March 18, 2020, a HSI Seattle executed the search warrant at 9301
27 244th St. SW, Apt. H103 in Edmonds, Washington. THOMAS S. CLARK was
28 encountered inside the residence and was the sole occupant. Pursuant to the search

1 warrant, agents seized two (2) Apple iPhones; a Microsoft Surface GO model 1824; a
2 Microsoft Surface Pro Laptop model 1796; and a SanDisk MicroSD card.

3 20. During the forensic examination of the listed devices, HSI SA McFarland
4 identified two (2) video files depicting child pornography. They were found on evidence
5 item #001 - Apple iPhone 8 Plus, and #002 – Apple iPhone 8 Plus. Although the files
6 were found on separate devices, they were determined to be duplicate videos.

7 21. I reviewed the video file described above on the Apple iPhones and
8 determined is titled “**Beef Tacos.wmv**”. The video is approximately 29 seconds in
9 length and depicts a male child that appears to be 2-4 years old, lying on his back. What
10 appears to be an adult male left hand is masturbating the penis of the child. The focus of
11 the video is on the child’s genitals. The child is wearing a blue shirt but is exposed at the
12 groin and thighs. I estimated the age of the child based on body size, minimal muscle
13 development and lack of pubic hair

14 22. I further reviewed the forensic image of the devices and determined there
15 were 472 image files and one (1) video file of child pornography on evidence line item
16 #003 – Microsoft Surface GO. I have described two (2) of the image files from that
17 device below.

18 23. Image file **2d86678990105a06.jpg** is an image that depicts a male child
19 that appears to be approximately 3-4 years old, lying on his back on a red sheet with his
20 genitals and anus toward the camera. What appears to be an adult male’s left hand is
21 pushing a purple phallic device into the child’s anus. The focus of the image is on the
22 child’s genitals and anus. I estimated the age of the child based on body size, minimal of
23 muscle development and lack of pubic hair.


24 24. Image file **3b3120df3f8128db.jpg** is an image that depicts a nude newborn
25 child that appears to be less than a year old, lying face down on a striped blanket. The
26 index finger of what appears to be the right hand of an adult male is penetrating the
27 child’s anus. The focus of the image is on the child’s anus. I estimated the age of the
28

1 child based on body size, minimal muscle and skeletal development, lack of pubic hair
2 and an overall newborn child body appearance

3 25. Computer Forensic Agent (CFA) Heng found numerous “keyword”
4 artifacts that were indicative of child sexual abuse material. These artifacts were
5 associated with the Opera web browser that indicate the Opera web browser was used to
6 search for specific terms. The search terms found included: “boys town onion dark web”
7 and “hurtcore”. Based on my training and experience, I believe that “boys town onion
8 dark web” likely indicates a search for young boys sites related to The Onion Router
9 (TOR), and “hurtcore” is a term associated with extreme pornography, usually involving
10 degrading violence and child sexual abuse material. The Onion Router is also referred to
11 as the “TOR Network”, which a computer network available to Internet users that is
12 designed specifically to facilitate anonymous communication over the Internet. The TOR
13 network attempt to do this by routing TOR user communications through a globally
14 distributed network of relay computers, along a randomly assigned path known as a
15 “circuit.”

17 III. CONCLUSION

18 26. Based on the above facts, I believe that there is probable cause to conclude
19 that THOMAS S. CLARK committed the offenses charged in this Complaint.

20
21
22 
23 REESE BERG, Complainant,
24 Special Agent
25 Department of Homeland Security
26 Homeland Security Investigations
27
28

DATED this 11th day of March, 2021.